

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MELVIN L. VIRGIL,

PLAINTIFF,

AGAINST

Case No.:7:22-cv-3169  
(CS)(JMC)

ANSWER

AARON FINN, Corrections Officer,  
ALEXANDER COSTANTINI, Corrections Officer,  
PHILLIP LANGDON, Corrections Officer, JOHN  
DOE 1-8, Corrections Officers, ANTHONY J.  
ANNUCCI, Acting Commissioner of the New York  
State Department of Corrections and Community  
Supervision, MARK ROYCE, Former Superintendent  
of Green Haven Correctional Facility, JOHN DOE 9,  
supervising employee of DOCCS, in their  
individual capacities,

DEFENDANTS.

\*\*\*\*\*  
The defendant, Aaron Finn, as and for his answer to the complaint herein, by his  
attorneys, Cook, Kurtz & Murphy, P.C., respectfully shows to the court and allege:

I.

That he admits the allegations contained in the paragraph numbered "331" of the  
complaint herein.

II.

That he denies having knowledge or information sufficient to form a belief as to the  
allegations contained in the paragraphs numbered "9" through "28", "31" through "33", "35",  
"36", "37", "39", "40", "42", "43", "52" through "61", "65" through "69", "85" through "88", "90"  
through "97", "99" through "102", "104" through "108", "110" through "112", "114", "117"  
through "129", "132" through "175", "178" through "330", "333", and "339" through "357" of  
the complaint herein.

III.

That he denies the allegations contained in the paragraphs numbered "1" through "8", "29", "30", "34", "38", "41", "44" through "51", "62" through "64", "70" through "84", "89", "98", "103", "109", "113", "115", "116", "130", "131", "176", "177", "332", "334" through "338" of the complaint herein.

IV.

That he denies each and every allegation of the complaint not hereinbefore expressly and specifically admitted, controverted or denied.

AS AND FOR A FIRST, SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

V.

That the alleged damages sustained by the plaintiff herein were caused solely by the conduct of the plaintiff or were contributed to by the conduct of the plaintiff or the risks were assumed by the plaintiff and if it is determined that the plaintiff is entitled to recovery, the answering defendant, Aaron Finn, demands that the verdict be apportioned in accordance with the culpable conduct attributable to the plaintiff.

AS AND FOR A SECOND, SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

VI.

That the defendant, Aaron Finn, is entitled to absolute and/or qualified immunity.

AS AND FOR A THIRD, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

VII.

That at all times the defendant, Aaron Finn, acted in good faith and without malice.

AS AND FOR A FOURTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE, THE DEFENDANTS ALLEGE:

VIII.

That the claims herein fail to state facts sufficient to constitute a valid cause of action

AS AND FOR A FIFTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

IX.

That at no time did the defendant, Aaron Finn, act with deliberate indifference to rights of the plaintiff.

AS AND FOR A SIXTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

X.

That the defendant, Aaron Finn, exercised all care reasonably necessary to prevent and limit the deprivation and injuries claimed by plaintiff.

AS AND FOR A SEVENTH, SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:

XI.

That this action is barred by the applicable statute of limitations.

AS AND FOR AN EIGHTH, SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE, THE DEFENDANT ALLEGES:  
XII.

That plaintiff has failed to exhaust all administrative remedies.

**DEFENDANTS HEREBY DEMAND A TRIAL BY JURY**

WHEREFORE, the answering defendants demand judgment dismissing the complaint of the plaintiff, as against them, or in the alternative, diminution of damages based on the culpable conduct of the plaintiff and judgment over against the plaintiff in an amount to be apportioned and determined at the trial of this action, together with the costs and disbursements of this action, and reasonable attorney's fees.

Dated: December 19, 2022



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JOHN C. BURNS # 702954  
COOK, KURTZ& MURPHY, P.C.  
ATTORNEYS FOR DEFENDANT  
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PRISONERS LEGAL SERVICES OF NEW YORK  
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Supervision, MARK ROYCE, Former Superintendent  
of Green Haven Correctional Facility, JOHN DOE 9,  
supervising employee of DOCCS, in their  
individual capacities,

DEFENDANTS.

\*\*\*\*\*  
**CERTIFICATE OF SERVICE**

I, JOHN C. BURNS, being duly sworn, deposes and says:

1. I am not a party to this action, am over 18 years of age, and reside at Kingston,  
New York 12401.

2. I hereby certify that on December 19, 2022, a true copy of the annexed  
ANSWER was served in the following manner:

By filing the same on ECF, by emailing the same and by mailing the same in a sealed  
envelope, with postage prepaid thereon, in a post office or official depository of the U.S.  
Postal Service within the State of New York, addressed to the address of the addressee(s)  
as indicated below:

TO: BENJAMIN WHITE, ESQ.  
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